

AMENDED IN SENATE APRIL 27, 2004

AMENDED IN SENATE APRIL 15, 2004

SENATE BILL

No. 1820

Introduced by Senator Machado

February 20, 2004

An act to amend Sections 51203, 51243.6, 51283, 56738, and 56754 of, and to amend, repeal, and add Section 51243.5 of, the Government Code, relating to land conservation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1820, as amended, Machado. Land conservation contracts.

(1) Existing law makes the current fair market valuations required to determine the cancellation fee for removing land from a Williamson Act conservation contract subject to appeal to the county board of equalization. *Existing law requires the county assessor to send a notice to the assessee that indicates the current fair market value of the land as though it were free of the contractual restriction and that advises the assessee of his or her right to appeal the determination, as specified.*

This bill *would delete the assessee's right to an appeal and instead would require the assessor to notify the assessee of his or her opportunity to select an independent appraiser. The bill would require the Department of Conservation or the landowner, if either determines those that the current fair market valuations are inaccurate, to so inform the board of supervisors or city council considering the cancellation petition, and would require the department and the landowner to mutually select an independent appraiser to calculate the current unrestricted fair market value of the property to serve as the basis for the valuation for the cancellation penalty, as specified.*

(2) Existing law provides that when a city annexes land that is subject to a Williamson Act land conservation contract between the landowner and the county, the city may exercise an option to not succeed to rights, powers, and duties of the county under the contract in specified circumstances.

This bill would repeal that option on January 1, 2006, and require that the city succeed to the contract when land under contract is annexed to the city. The bill would make related changes.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 51203 of the Government Code is
2 amended to read:
3 51203. (a) If the Department of Conservation or the
4 landowner determines that the current fair market valuations
5 referred to in Section 51283 are not accurate, the department or the
6 landowner shall so inform the board of supervisors or city council
7 considering the petition to cancel the contract.
8 (b) The department and the landowner shall mutually select an
9 independent appraiser licensed by the California Office of Real
10 Estate Appraisers and certified by either the California Chapter of
11 the American Society of Farm Managers and Rural Appraisers
12 (CALasfmra) or a member of the Appraisal Institute (MAI) to
13 calculate the current unrestricted fair market value of the property.
14 The independent appraiser's estimate of the current fair market
15 value shall serve as the cancellation valuation of the property,
16 unless the independent appraiser's value is not 10 percent higher
17 or lower than the value determined by the assessor, in which case
18 the assessor's value shall serve as the cancellation valuation of the
19 property.
20 (c) The costs of the appraisal shall be paid by the party that
21 determines that the valuation is not accurate.
22 SEC. 2. Section 51243.5 of the Government Code is amended
23 to read:
24 51243.5. (a) This section shall apply only to land that was
25 within one mile of a city boundary when a contract was executed
26 pursuant to this article and for which the contract was executed
27 prior to January 1, 1991.



1 (b) For any proposal that would result in the annexation to a city
2 of any land that is subject to a contract under this chapter, the local
3 agency formation commission shall determine whether the city
4 may exercise its option to not succeed to the rights, duties, and
5 powers of the county under the contract.

6 (c) In making the determination required by subdivision (b),
7 pursuant to Section 51206, the local agency formation
8 commission may request, and the Department of Conservation
9 shall provide, advice and assistance in interpreting the
10 requirements of this section. If the department has concerns about
11 an action proposed to be taken by a local agency formation
12 commission pursuant to this section or Section 51243.6, the
13 department shall advise the commission of its concerns, whether
14 or not the commission has requested it to do so. The commission
15 shall address the department's concerns in any hearing to consider
16 the proposed annexation or a city's determination whether to
17 exercise its option not to succeed to a contract, and shall
18 specifically find that substantial evidence exists to show that the
19 city has the present option under this section to decline to succeed
20 to the contract.

21 (d) A city may exercise its option to not succeed to the rights,
22 duties, and powers of the county under the contract if both of the
23 following had occurred prior to December 8, 1971:

24 (1) The land being annexed was within one mile of the city's
25 boundary when the contract was executed.

26 (2) The city had filed with the county board of supervisors a
27 resolution protesting the execution of the contract.

28 (e) A city may exercise its option to not succeed to the rights,
29 duties, and powers of the county under the contract if each of the
30 following had occurred prior to January 1, 1991:

31 (1) The land being annexed was within one mile of the city's
32 boundary when the contract was executed.

33 (2) The city had filed with the local agency formation
34 commission a resolution protesting the execution of the contract.

35 (3) The local agency formation commission had held a hearing
36 to consider the city's protest to the contract.

37 (4) The local agency formation commission had found that the
38 contract would be inconsistent with the publicly desirable future
39 use and control of the land.

1 (5) The local agency formation commission had approved the
2 city's protest.

3 (f) It shall be conclusively presumed that no protest was filed
4 by the city unless there is a record of the filing of the protest and
5 the protest identifies the affected contract and the subject parcel.
6 It shall be conclusively presumed that required notice was given
7 before the execution of the contract.

8 (g) The option of a city to not succeed to a contract shall extend
9 only to that part of the land that was within one mile of the city's
10 boundary when the contract was executed.

11 (h) If the city exercises its option to not succeed to a contract,
12 then the city shall record a certificate of contract termination with
13 the county recorder at the same time as the executive officer of the
14 local agency formation commission files the certificate of
15 completion pursuant to Section 57203. The certificate of contract
16 termination shall include a legal description of the land for which
17 the city terminates the contract.

18 (i) This section shall remain in effect only until January 1,
19 2006, and shall have no force or effect on or after that date, unless
20 a later enacted statute that is chaptered before January 1, 2006,
21 deletes or extends that date.

22 SEC. 3. Section 51243.5 is added to the Government Code, to
23 read:

24 51243.5. On and after January 1, 2006, no city may decline to
25 succeed to the terms of a Williamson Act contract when land
26 subject to a contract is annexed to the city.

27 SEC. 4. Section 51243.6 of the Government Code is amended
28 to read:

29 51243.6. The Legislature finds and declares the following:

30 (a) The enforceability of contracts entered into pursuant to this
31 article is necessary to permit the preferential taxation provided to
32 the owners of land under contract, pursuant to Section 8 of Article
33 XIII of the California Constitution.

34 (b) The option granted to a city pursuant to Section 51243.5 to
35 elect not to succeed to a contract may be held only by the city and
36 only with respect to annexations approved by the local agency
37 formation commission prior to January 1, 2006.

38 (c) No contracting landowner has a reasonable expectation that
39 a contract can be terminated immediately pursuant to this article
40 without penalty.

SEC. 5. *Section 51283 of the Government Code is amended to read:*

51283. (a) Prior to any action by the board or council giving tentative approval to the cancellation of any contract, the county assessor of the county in which the land is located shall determine the current fair market value of the land as though it were free of the contractual restriction. The assessor shall certify to the board or council the cancellation valuation of the land for the purpose of determining the cancellation fee. At the same time, the assessor shall send a notice to the assessee indicating the current fair market value of the land as though it were free of the contractual restriction. The notice shall advise the assessee of the ~~right to appeal the fair market value of the land under Section 1605 of the Revenue and Taxation Code and that the appeal shall be filed within 60 days of the date of mailing printed on the notice or the postmark date therefor, whichever is later~~ opportunity to select an independent appraiser pursuant to Section 51203.

(b) Prior to giving tentative approval to the cancellation of any contract, the board or council shall determine and certify to the county auditor the amount of the cancellation fee that the landowner shall pay the county treasurer upon cancellation. That fee shall be an amount equal to 12¹/₂ percent of the cancellation valuation of the property.

(c) If it finds that it is in the public interest to do so, the board or council may waive any payment or any portion of a payment by the landowner, or may extend the time for making the payment or a portion of the payment contingent upon the future use made of the land and its economic return to the landowner for a period of time not to exceed the unexpired period of the contract, had it not been canceled, if all of the following occur:

(1) The cancellation is caused by an involuntary transfer or change in the use which may be made of the land and the land is not immediately suitable, nor will be immediately used, for a purpose which produces a greater economic return to the owner.

(2) The board or council has determined that it is in the best interests of the program to conserve agricultural land use that the payment be either deferred or is not required.

(3) The waiver or extension of time is approved by the Secretary of the Resources Agency. The secretary shall approve a waiver or extension of time if the secretary finds that the granting

1 of the waiver or extension of time by the board or council is
2 consistent with the policies of this chapter and that the board or
3 council complied with this article. In evaluating a request for a
4 waiver or extension of time, the secretary shall review the findings
5 of the board or council, the evidence in the record of the board or
6 council, and any other evidence the secretary may receive
7 concerning the cancellation, waiver, or extension of time.

8 (d) The first nine hundred eighty-five thousand dollars
9 (\$985,000) of revenue paid to the Controller pursuant to
10 subdivision (e) in the 1992–93 fiscal year, and any other amount
11 as approved in the final Budget Act for each fiscal year thereafter,
12 shall be deposited in the Soil Conservation Fund, which is
13 continued in existence. The money in the fund is available, when
14 appropriated by the Legislature, for the support of both of the
15 following:

16 (1) The total cost of the farmlands mapping and monitoring
17 program of the Department of Conservation pursuant to Section
18 65570.

19 (2) The soil conservation program identified in Section 614 of
20 the Public Resources Code.

21 (e) When cancellation fees required by this section are
22 collected, they shall be transmitted by the county treasurer to the
23 Controller and deposited in the General Fund, except as provided
24 in subdivision (d). The funds collected by the county treasurer with
25 respect to each cancellation of a contract shall be transmitted to the
26 Controller within 30 days of the execution of a certificate of
27 cancellation of contract by the board or council, as specified in
28 subdivision (b) of Section 51283.4.

29 (f) It is the intent of the Legislature that fees paid to cancel a
30 contract do not constitute taxes but are payments that, when made,
31 provide a private benefit that tends to increase the value of the
32 property.

33 *SEC. 6.* Section 56738 of the Government Code is amended
34 to read:

35 56738. If the proposal would result in the annexation to a city
36 of land that is subject to a contract executed pursuant to the
37 Williamson Act (Chapter 7 (commencing with Section 51200) of
38 Division 1), then the petition shall state whether the city shall
39 succeed to the contract pursuant to Section 51243 or whether the
40 city intends to exercise its option to not succeed to the contract

1 pursuant to Section 51243.5. The city's option to not succeed to the
2 contract, if any, shall exist only for annexations approved by the
3 commission prior to January 1, 2006.

4 ~~SEC. 6.—~~

5 SEC. 7. Section 56754 of the Government Code is amended
6 to read:

7 56754. (a) If a change of organization or reorganization
8 approved by the commission prior to January 1, 2006, would result
9 in the annexation to a city of land that is subject to a contract
10 executed pursuant to the Williamson Act (Chapter 7 (commencing
11 with Section 51200) of Division 1), the commission, based on
12 substantial evidence in the record, shall determine one of the
13 following:

14 (1) That the city shall succeed to the rights, duties, and powers
15 of the county pursuant to Section 51243, or

16 (2) That the city may exercise its option to not succeed to the
17 rights, duties, and powers of the county pursuant to Section
18 51243.5.

19 (b) If a change of organization or reorganization approved by
20 the commission on or after January 1, 2006, would result in the
21 annexation to a city of land that is subject to a contract executed
22 pursuant to the Williamson Act (Chapter 7 (commencing with
23 Section 51200) of Division 1), the commission shall determine
24 that the city shall succeed to the rights, duties, and powers of the
25 county pursuant to Section 51243.

